

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/019,419	02/06/98	ZAMEROWSKI	P 97256

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EXAMINER	
ART UNIT	PAPER NUMBER
CHO, D	3735

**DATE MAILED: 03/23/99**

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

**Office Action Summary**Application No.  
**09/019,419**

Applicant(s)

**Zamierowski**

Examiner

**CHO, David J.**

Group Art Unit

**3735** Responsive to communication(s) filed on \_\_\_\_\_. This action is **FINAL**. Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims** Claim(s) 1-32 is/are pending in the application.Of the above, claim(s) 23-32 is/are withdrawn from consideration. Claim(s) \_\_\_\_\_ is/are allowed. Claim(s) 1, 4-11, and 17-20 is/are rejected. Claim(s) 2, 3, 12-16, 21, and 22 is/are objected to. Claims \_\_\_\_\_ are subject to restriction or election requirement.**Application Papers** See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948. The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner. The proposed drawing correction, filed on \_\_\_\_\_ is  approved  disapproved. The specification is objected to by the Examiner. The oath or declaration is objected to by the Examiner.**Priority under 35 U.S.C. § 119** Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d). All  Some\*  None of the CERTIFIED copies of the priority documents have been received. received in Application No. (Series Code/Serial Number) \_\_\_\_\_. received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_.

 Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)** Notice of References Cited, PTO-892 Information Disclosure Statement(s), PTO-1449, Paper No(s). 6 Interview Summary, PTO-413 Notice of Draftsperson's Patent Drawing Review, PTO-948 Notice of Informal Patent Application, PTO-152**--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---**

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-22, drawn to a patient fluid management interface system, classified in class 604, subclass 289.
  - II. Claims 23-32, drawn to a method for interfacing a motorized pump, classified in class 604, subclass 28.
2. The inventions are distinct, each from the other because of the following reasons:

Inventions of Group I and Group II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the apparatus does not require the particular step of “interfacing a motorized pump to the patient”.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Mr. Mark Brown on March 15, 1999 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-22.

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Affirmation of this election must be made by applicant in replying to this Office action. Claims 23-32 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

***Information Disclosure Statement***

5. The information disclosure statement filed 6/23/98 fails to comply with 37 CFR 1.98(a)(1), which requires a list of all patents, publications, or other information submitted for consideration by the Office. It has been placed in the application file, but the information referred to therein has not been considered.

***Oath/Declaration***

6. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the post office address of each inventor. A post office address is an address at which an inventor customarily receives his or her mail and may be either a home or business address. The post office address should include the ZIP Code designation. If applicant's address is the same as the post office address, indicate as "same as above".

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***Specification***

7. The abstract of the disclosure is objected to because of the improper grammatical text on line 13. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1, 4-10 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leclerc '4,525,166.

Leclerc discloses a suction drainage device comprising a receptacle (1) communicated in a body cavity with a absorbent material (2) by an inlet tube (11), see figure 1. With respect to the "film material drape", Leclerc discloses the receptacle can be made from a polymeric or laminate film which is substantially impervious to gas and positioned adjacent to the absorbent material, see column 5, lines 17-22. With respect to the material of the absorbent material 2, see column 5, lines 42-43 and in regards to "plurality of passages on the primary fluid transfer element", see column 6, lines 10-11. With respect to the "vacuum source" and "vacuum tube", see tube (11),

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whereby a socket 12 of a plug coupling is provided for connection to a drainage tube. With respect to claims 19-20, Leclerc also discloses the tubing member is made from a flexible material, thereby capable of forming a "P-trap". However, Leclerc does not disclose the drape having an adhesive contact layer nor non-adhesive layer.

In regarding claims 7-10, it is observed that applicant's specification does not disclose that the adhesive/non-adhesive on the drape solves any particular problem or produces any unexpected result and therefore such is merely a matter of engineering design choice, and thus does not serve to patentably distinguish over the prior art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided adhesive around the receptacle of Leclerc in order to provide a secure connection to the patient.

10. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Leclerc '4,525,166 in view of Svedman et al. '5,176,663.

Leclerc discloses the invention substantially as claimed except for the fluid source. Svedman et al. teaches a wound dressing comprising an absorbent pad 10 with an inlet tube 30 and an outlet tube 32 for circulation of treatment fluid, see figure 7.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Leclerc with the fluid source tube as taught by Svedman et al. in order to provide treatment fluid to the dressing pad.

11. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leclerc '4,525,166 in view of Evans et al. 2,282,873.

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Leclerc discloses the invention substantially as claimed except for the secondary fluid transfer element. Evans et al. teaches general purpose protective dressing comprising a multi-layer absorbent pad, e.g., cotton layer (14), first layer of absorbent wadding (16) and second layer of water repellent wadding (18), see figure 2.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have provided the invention of Leclerc with the secondary fluid transfer element as taught by Evans et al. in order to provide an adequate absorption capacity to contain the total wound exudate.

### *Conclusion*

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 2,632,443, 4,245,630, 5,167,613, 5,556,375, 5,607,388 discloses multi-purpose wound dressing.

U.S. Patent No. 4,787,888, 5,344,415, 5,358,494 discloses wound dressing with suction tubes.

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13. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to David J. Cho, whose telephone number is (703) 308-0073. The Examiner can normally be reached on Monday-Friday from 7:00 am to 4:00 pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, John Weiss, can be reached on (703) 308-2702. The fax number for this Group is (703) 305-3590 or x3591.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0858.

*David J. Cho*

Patent Examiner  
March 17, 1999